IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

OP.No. 24355 of 2001(Y)

PETITIONER:

1. THE PRESIDENT, ARUVIKKARA FARMER'S SERVICE, CO-OPERATIVE BANK LTD., NO. 603, ARUVIKKARA P.O., THIRUVANANTHAPURAM - 695 564.

2. ARUVIKKARA FARMER'S SERVICE CO-OPERATIVE BANK LTD., NO. 603, ARUVIKKARA P.O., THIRUVANANTHAPURAM - 695 564, REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV. SRI.C.P.SUDHAKARA PRASAD
SRI.ELVIN PETER P.J.
SRI.S.RAMESH
SRI.P.N.SANTHOSH
SRI.S.D.ASOKAN

RESPONDENTS:

1. M. NARAYANAN CHETTIAR, SUNI BHAVAN, ARUVIKKARA P.O., THIRUVANANTHAPURAM - 695 564.

2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, VANCHIYOOR P.O., THIRUVANANTHAPURAM - 3.

3. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, THIRUVANANTHAPURAM.

4. STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

5. KERALA LOK AYUKTA, THIRUVANANTHAPURAM.

BY ADV. SRI.KRB.KAIMAL
SRI.B.UNNIKRISHNA KAIMAL
SMT. K.R. DEEPA, GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P NO. 63633/2001 IN O.P. NO. 24355/2001

CLOSED

06.07.2007 SD/- KURIAN JOSEPH, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE COMPLAINT NO. 386/2001 FILED BY THE 1ST RESPONDENT BEFORE THE 5TH RESPONDENT.

EXT.P2: TRUE COPY OF WRITTEN COMMENTS DATED 23RD JUNE, 2001 FILED BY THE PETITIONERS BEFORE THE 5TH RESPONDENT.

EXT.P3: TRUE COPY OF THE ORDER NO. AEL/2589/98(i). DT. 16.04.1998 ISSUED BY THE 2ND RESPONDENT.

EXT.P4: TRUE COPY OF THE ORDER NO. AEL. 2589/98 (ii) DT. 20.04.1998 ISSUED BY THE 2ND RESPONDENT.

EXT.P5: TRUE COPY OF COUNTER AFFIDVIT FILED IN COMPLAINT NO. 386/2001 ALONG WITH ANNEXURES.

EXT.P6: TRUE COPY OF STATEMENT SHOWING THE AMOUNT DUE FROM THE 1ST RESPONDENT FILED IN COMPLAINT NO. 386/2001 BEFORE THE 5TH RESPONDENT.

EXT.P7: TRUE COPY OF THE MINUTES OF THE MEETING OF THE SUB COMMITTEE.

EXT.P8: TRUE COPY OF ORDER DATED 19TH JULY, 2001 IN COMPLAINT NO. 386/2001 PASSED BY THE 5TH RESPONDENT.

RESPONDENTS' EXHIBITS:

EXT.R-1(a): TRUE COPY OF THE PART II(PARAGRAPH 6.00) OF THE INQUIRY REPORT SUBMITTED BY THE INQUIRING AUTHORITY MR. S. SUBASH CHANDRAN DT. 15.03.2001.

EXT.R1-(b): TRUE COPY OF THE NOTICE DT. 25.10.2001 ISSUED BY THE ARUVIKKARA FARMER'S SERVICE CO-OP. BANK TO THE PETITIONER/1ST RESPONENT IN O.P.

EXT.R-1(c): TRUE COPY OF THE REPRESENTATION DT. 20.11.2001 SUBMITTED BY THE PETITIONER/1ST RESPONDENT IN OP TO THE CONVENOR DISCIPLINARY SUB COMMITTEE, ARUVIKKARA FARMER'S SERVICE CO.OP. BANK.

EXT.R-1(d): TRUE COPY OF THE NOTICE DT. 29.12.2001 (it must be 29.11.2001) ISSUED BY THE ARUVIKKARA FARMER'S SERVICE CO-OP. BANK TO THE PETITIONER/1ST RESPONDENT IN OP.

/True Copy/

P.A to Judge.

KURIAN JOSEPH , J

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O.P. NO. 24355 OF 2001

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Dated this the 6th day of July, 2007.

JUDGMENT

The writ petition is filed with the following prayers:

i) issue a writ of certiorari or any other appropriate writ, direction or order calling for the records leading to Ext.P8 and quashing the same.

ii) issue a writ of mandamus or any other appropriate writ, direction or order declaring that the 1st respondent is not entitled to get any direction from the 5th respondent in Complaint No. 386/2001.

iii) issue a writ of mandamus or any other appropriate writ, direction or order declaring that the Gratuity amount due to the 1st respondent is not payable to him till he is absolved of the liabilities in A.R.C Nos. 6/98 and 7/98 pending before the Arbitrator and also the proceedings pursuant to the Report against him in the enquiry under Section 65 of the Kerala Co-Operative Societies Act.

2. In the matter of jurisdiction of the Kerala Lok Ayukta, the issue is covered in favour of the petitioner by the Bench decision of this Court in **State of Kerala v. Bernard** reported in 2002 (3) KLT 254. Therefore, the impugned orders are quashed making it clear that the judgment will not stand in the way of 1st respondent pursuing his grievance in appropriate proceedings under the provisions of the Kerala Co-Operative Societies Act, in which case the time taken for prosecuting this writ petition shall stand excluded while computing the period of limitation.

The writ petition is disposed of accordingly.

KURIAN JOSEPH, JUDGE.

rv

KURIAN JOSEPH, JUDGE.

O.P. NO. 24355 of 2001

6th day of July, 2007

JUDGMENT